

Storm Water Management Facility Restrictive Covenant Language

Instructions: Please include the following language, as a section outlining maintenance responsibilities for the storm water management facilities, in the Restrictive Covenants of the Homeowners Association as it pertains to your subdivision:

1. Declarant/HOA Covenant:
 - a. All parties affected by this Declaration intend the covenants in this Declaration to run with the land and with title to the Property. If any clause or covenant of this Declaration prevents this Declaration from running with the land, such clause or covenant shall be judicially modified and enforced so that the covenants in this Declaration run with the land.
 - b. When the subdivision development reaches the condition where it is fifty percent built the Declarant shall file homeowner's association documents with the Director defining the responsible party for maintaining the storm water management facilities.
 - c. If/when the owner of the property is an Owners Association,
 - i. The membership of the Association shall consist of Declarant until turnover of power to the Association, and every Homeowner. Membership into the association is mandatory for all current and future property/lot owners for the purpose of maintaining the storm water management facilities.
 - ii. The Association shall have the powers set forth in the Articles and Bylaws and granted by South Carolina law. The Association shall have the power to adopt a budget and to assess Homeowners to pay for the Association's expenses for the purpose of maintaining the storm water management facilities as set forth in the governing documents. Except as provided in the governing documents, the Board of Directors may act in all instances on behalf of the Association.
 - iii. The Association shall responsible for maintenance and repair of the storm water management facilities. Maintenance and repair of the storm water management facilities is mandatory per local, state, and federal regulations. In addition to, or in lieu of criminal penalties authorized by the Greenville County Revised Storm Water Management Ordinance No. 4281, the County has the authority to assess a civil penalty of not more than seven thousand five hundred dollars (\$7,500.00) per violation against any person who has violated any provisions of this ordinance.
 - iv. Funds for storm water management will be kept separate from other funds as a line item in overall budget.
 - v. To the extent permitted by law, the association cannot dissolve without passing storm water maintenance responsibility to another legal entity.
2. Common Areas – Responsibilities and Maintenance
 - a. The Landowner (Developer/Declarant), its successors and assigns, including any homeowner's association will own and maintain the Common Area and all storm water management facilities (structural and non-structural) located within the

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- Common Area, including but not limited to, structural and non-structural storm water management facilities, buffers, low impact development and associated elements. As owners of property which is designed to drain to a particular storm water management facility in any phase of development in the subdivision, each property owner shall be equally responsible for inspection, maintenance, and repair of that storm water management facility to which their lot is designed to drain in the subdivision, as shown / found on the approved storm water plan for the subdivision and / or recorded storm water management facility maintenance agreement. This is in the absence of a Homeowner's or Property Owner's Association. Within these areas, no structure, planting or other material shall be placed or permitted to remain (1) which may damage or interfere with the performance of storm water features, easements; or (2) buffer areas or which may change the direction of flow of storm water or drainage channels; or (3) which may obstruct or retard the flow of water through the storm water features in these areas.
- b. Pet waste signs/stations, which are shown on the final plat, are to be located in all common areas used for recreation to encourage all homeowners to dispose of their pet waste appropriately. The Association will be responsible for maintaining, repairing, and/or replacing the sign/stations.
3. Ownership & Maintenance of Storm Water Management Facilities and Low Impact Development Features
- a. The Landowner (Developer/Declarant), its successors and assigns, including any homeowners association will own, operate and maintain the storm water management facilities, including any low impact development features and manufactured devices.
 - b. In addition to the powers granted under its governing documents, the Association shall provide the following services:
 - i. Maintenance of all Common Areas used for storm water management facilities located within the Property to the extent permitted by governmental authority.
 - ii. Maintenance of any real property located within the Property upon which the Association has accepted an easement for maintenance.
 - iii. The Association's maintenance of the Common Area used for storm water management facilities shall specifically include, but shall not be limited to, the facility and the storm water management system to the extent permitted by the County.
 - iv. As owners of property which is designed to drain to a particular storm water management facility in any phase of development in the subdivision, each property owner shall be equally responsible for inspection, maintenance, and repair of that storm water management facility to which their lot is designed to drain in the subdivision, as shown / found on the approved storm water plan for the subdivision and / or recorded storm water management facility maintenance agreement. This is in the absence of a Homeowner's or Property Owner's Association.

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- c. The Association shall maintain the Storm Water Management Facility in accordance with the approved Storm Water Plan (Permit # _____) and the recorded storm water management facility maintenance agreement for each element of the storm water management facility, including manufactured devices.
- i. The Landowner, its heirs, successors and assigns, will perform the work necessary to keep the facilities in good working order as appropriate.
 - ii. The Association will follow routine and prescribed maintenance of all storm water management facility elements, including manufactured devices, in accordance with the approved storm water plan and recorded storm water management facility maintenance agreement.
 - iii. No alterations of the storm water management facilities and appurtenances will be permitted without the prior written consent and approval of the storm water permitting agency.
 - iv. As owners of property which is designed to drain to a particular storm water management facility in any phase of development in the subdivision, each property owner shall be equally responsible for inspection, maintenance, and repair of that storm water management facility to which their lot is designed to drain in the subdivision, as shown / found on the approved storm water plan for the subdivision and / or recorded storm water management facility maintenance agreement. This is in the absence of a Homeowner's or Property Owner's Association. .
 - v. Easements for Storm water Management: For storm water management facilities not located within a Common Area owned by the Association, there shall be a non-exclusive perpetual easement upon, over, under and across all portions of the Property utilized for the surface water or storm water management system. Additionally, the Association shall have a perpetual nonexclusive easement for drainage over the entire surface water or storm water management system. No person shall alter the drainage flow of the surface water or storm water management system, including buffer areas or swales, without the prior written approval of the storm water permitting agency.
- d. Common areas used for storm water management facilities and easements: shall allow any authorized agent the right of ingress and egress over the Property and any easement areas, at a reasonable time and in a reasonable manner, for the purpose of operation, maintenance, or repair as required.
- e. Low Impact Development Features located on individual lots (if applicable):
- i. If a low impact development feature is located on individual lot(s), the owner(s) of the lot(s) will be responsible for the maintenance of such feature per the maintenance requirements, in accordance with the approved Storm Water Plan (Permit # _____) and recorded storm water management facility maintenance agreement.
 - ii. The low impact development feature shall not be altered or eliminated without approval from the storm water permitting agency.

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- iii. The ownership of the low impact development feature will be included in the deed and shall run with the land.
4. Ownership and Maintenance of Non-Structural Storm Water Management Facilities
- a. Buffer Areas, if applicable:
 - i. The Association shall own and maintain buffer areas when particularly used as part of the storm water management system, as outlined in the Storm Water Plan and recorded storm water management facility maintenance agreement.
 - ii. The buffer area must remain undeveloped in perpetuity, unless the owner of the Buffer Area, or any successors or assigns, obtains the prior written approval of the storm water permitting agency. To maintain the ability of the Buffer Area to filter and absorb storm water, and to maintain compliance with Storm water Management plan, the use of the buffer area is hereinafter limited as follows.
 - No soil, loam, peat, sand, gravel, concrete, rock or other mineral substance, refuse, trash, vehicle bodies or parts, rubbish, debris, junk waste, pollutants or other fill material may be placed, stored or dumped on the Buffer Area, nor may the topography of the area be altered or manipulated in any way;
 - Any removal of trees or other vegetation within the Buffer Area must be limited to the following:
 - a. No purposefully cleared openings may be created and an evenly distributed stand of trees and other vegetation must be maintained
 - b. No undergrowth, ground cover vegetation, leaf litter, organic duff layer or mineral soil may be disturbed except that one winding path, that is no wider than six feet and that does not provide a downhill channel for runoff, is allowed through the area;
 - No building or other temporary or permanent structure may be constructed, placed or permitted to remain on the Buffer Area, except for a sign, utility pole or fence;
 - No trucks, cars, dirt bikes, ATVs, bulldozers, backhoes, or other motorized vehicles or mechanical equipment may be permitted on the Buffer Area;
 - Any level spreader directing flow to the Buffer Area must be regularly inspected and adequately maintained to preserve the function of the level spreader.
5. Responsibilities of Homeowners/Property Owners:
- a. Lot Development. During the construction or renovation of a dwelling, the Homeowner or the Homeowner's builder shall control erosion and sedimentation

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- during and after construction, stabilize cleared areas, limit stockpiles, protect storm water inlets during construction, remove temporary control systems after construction, and limit the placement of gutters and drains. The Homeowner's builder shall comply with the local government and the storm water management plan requirements for erosion and sediment control.
- b. Interference with Storm Water Management System Elements. Homeowner will not interfere with any SWMS Elements on Homeowner's Lot so as to preclude the function of the element. This includes LID elements, which are incorporated into the SWMS.
 - c. Altering Flow of Surface Water Drainage. Homeowner will not alter, change or obstruct the flow of any surface water drainage in a SWMF Element on Homeowner's Lot.
 - d. Use of Area of Lot Subject to Storm Water Management System Easement. Homeowner may use any portion of Homeowner's Lot subject to a SWMS Easement so long as Homeowner's use is not inconsistent with the SWMS Easement.
6. The Soil & Water Conservation District is available as a resource for Environmental Education (good housekeeping practices) to homeowners and residents within the subdivision to include, but not limited to: purpose of storm water management & features; car washing; disposal of yard waste; pet waste impact and disposal; use of fertilizers and herbicides; oils from cars, motorcycles and lawn mowers; carpet cleaning water; cooking grease. For questions or information, please contact the Soil and Water Conservation District located at 301 University Ridge #4800 Greenville, SC 29601 (864) 467-2756.